## REMARKS/ARGUMENTS

Prior to the entry of this Amendment, claims 1-28 were pending in this application. Claim 1 has been amended, no claims have been added, and no claims have been canceled herein. Therefore, claims 1-28 remain pending in this application. The Applicants respectfully request reconsideration of these claims, as amended, for at least the reasons presented below.

## 35 U.S.C. § 112 Claim Rejections

The final Office Action rejected claim 1, and claims 2-16 are rejected as each depends from claim 1, under 35 U.S.C. § 112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention. More specifically, the final Office Action alleged that there is insufficient antecedent basis for the limitation "the transactions of the customer" recited in line 10 of claim 1. In response, the Applicants respectfully point out that "transactions of the customer" are first recited in line 6 and 7 of claim 1. The Applicants also respectfully contend that the claim, as presented here is proper and does in fact provide the proper antecedent basis for the recitation of "the transactions of the customer. Therefore, the Applicants respectfully request withdrawal of the rejection.

## *35 U.S.C. § 102 Rejections, Templeton*

The Office Action has rejected claims 1-28 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2003/0130919 of Templeton et al. (hereinafter "Templeton"). The Applicant respectfully submits the following arguments pointing out significant differences between claims 1-28 submitted by the Applicants and Templeton.

Appl. No. 10/821,408
Amdt. dated October 21, 2008
Amendment under 37 CFR 1.114
Request for Continued Examination

PATENT

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully argue that Templeton fails to disclose each and every claimed element. For example, Templeton fails to disclose, either expressly or inherently, settling a transaction based on a special rule defining a strategy for handling a promissory payment or for transferring funds from the customer's financial institution as recited in the pending claims.

Templeton is directed to "systems and methods . . . for selectively incorporating information received from a demand deposit account (DDA) associated with a given check transaction into a risk assessment requested by a merchant for the transaction." (paragraph 21) More specifically, Templeton notes that "in some cases, the paper check received by the merchant from the check-writer is scanned, or otherwise processed, to produce an electronic version of the check, and it is the electronic version that is processed for settlement." (paragraph 58) Templeton states that "when the check is processed in electronic form, settlement of the check may take place by direct communication with the issuing bank or via a third party bank access service, among other available settlement paths, as will be described in greater detail with reference to FIG. 13 below." (paragraph 58)

Beginning at paragraph 155, Templeton describes a "Selective Determination of DDA Settlement Path" process. Specifically, when dealing with checks in electronic form, Templeton notes that settlement can be performed through different paths, i.e., via the federal reserve system, directly with the issuing bank, or via a third party entity. (paragraph 161) The "settlement choice engine" of Templeton selects the path for settlement. (paragraph 161) "In general, the settlement engine aims to identify a preferred path given the context of the current check to be settled, by weighing and balancing the costs of utilizing a given settlement path with the advantages and services provided by the settlement path while taking into consideration any

agreements made with the check-holder." (paragraph 168) That is, the settlement choice engine of Templeton selects a settlement path by weighing factors such as costs to the check-holder, not based on whether transactions of a customer are subject to a special rule.

In response to these arguments, the final Office Action points to the determination of a settlement path as describing the claimed recitation. However, the Applicants respectfully disagree and contend that the teachings of Templeton relied upon by the final Office Action do not in fact describe settling a transaction based on a special rule related to a customer's transactions as recited in the pending claims. Rather the settlement path determination of Templeton cited by the final Office Action describes a determination that is applied to transactions regardless of the individual customer. These cannot reasonably be interpreted as special rules related to the transactions of a particular customer.

Furthermore, the final Office Action cites portions of Templeton describing various DDA databases as allegedly describing the recited special rules database. For example, the final Office Action points to paragraphs 9 and 81 of Templeton. The Applicants respectfully contend that Templeton does not disclose, expressly or inherently, that the DDA databases can include rules defining a strategy for handling a promissory payment or for transferring funds from the customer's financial institution as recited in the pending claims. Furthermore, these databases are not used to select a settlement path. Rather, the information of the DDA databases are used to perform a risk analysis as part of an approval process for the transaction. (See for example paragraph 9)

Claim 1, upon which claims 2-16 depend, recites in part "determining whether the promissory payment can be submitted for subscriber settlement by evaluating a special rules database to determine whether transactions of the customer are subject to a special rule, wherein the special rules database comprises a plurality of records associated with customers, a plurality of records associated with financial institution accounts, a plurality of records associated with financial institution branches, and a plurality of records associated with past financial

Appl. No. 10/821,408
Amdt. dated October 21, 2008
Amendment under 37 CFR 1.114
Request for Continued Examination

PATENT

transactions and wherein each record of the special rules database is associated with a rule defining an alternative resolution strategy for handling the promissory payment." Templeton does not disclose, expressly or inherently, determining whether the promissory payment can be submitted for subscriber settlement by evaluating a special rules database to determine whether transactions of the customer are subject to a special rule, wherein the special rules database comprises a plurality of records associated with customers, a plurality of records associated with financial institution accounts, a plurality of records associated with financial institution branches, and a plurality of records associated with past financial transactions and wherein each record of the special rules database is associated with a rule defining an alternative resolution strategy for handling the promissory payment. For at least these reasons, the Applicants respectfully request withdrawal of the rejection and allowance of claims 1-16.

Claim 17, upon which claims 18-28 depend, recites in part "evaluating the electronic profile using a special rules database having previously stored electronic information relating to the customer in a manner so as to identify a special rule; and requesting settlement of the financial transaction with the customer's financial institution using the electronic profile and the special rule, wherein the special rule identifies the manner in which the funds can be transferred from the customer's financial institution." Templeton does not disclose, expressly or inherently, evaluating the electronic profile using a special rules database having previously stored electronic information relating to the customer in a manner so as to identify a special rule; and requesting settlement of the financial transaction with the customer's financial institution using the electronic profile and the special rule, wherein the special rule identifies the manner in which the funds can be transferred from the customer's financial institution. For at least these reasons, the Applicants respectfully request withdrawal of the rejection and allowance of claims 17-28.

Appl. No. 10/821,408
Amdt. dated October 21, 2008
Amendment under 37 CFR 1.114
Request for Continued Examination

PATENT

## 35 U.S.C. § 103 Rejection, Templeton in view of Allan

The Office Action has rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Templeton in view of U.S. Patent Publication No. 2003/0055756 to Allan (hereinafter "Allan"). The Applicants respectfully request withdrawal of the rejection and allowance of the claim for at least the reason that claim 14 depends upon a base claim that is thought to be allowable as discussed in detail above.

## CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


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